

**Introduced by Senator Machado**

February 21, 2003

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An act to amend Section 704.730 of the Code of Civil Procedure, relating to homesteads.

LEGISLATIVE COUNSEL'S DIGEST

SB 804, as amended, Machado. Homesteads: exemptions.

Existing law provides that a specified portion of equity in a homestead, as defined, is exempt from execution to satisfy a judgment debt. Existing law provides ~~a base exemption of \$50,000, an exemption of \$75,000 if the judgment debtor or his or her spouse who resides in the homestead is, at the time of the sale, a member of a family unit, and one member of the family unit is without an interest, or with only a limited interest, as specified, in the homestead, and an exemption of \$125,000 if the judgment debtor or the spouse of the judgment debtor who resides in the homestead is, at the time of the sale, 65 years of age or older or, disabled, or 55 years of age or older with a gross annual income that does not exceed a certain amount, as specified.~~

This bill would increase the homestead ~~exemptions~~ exemption described above to ~~\$67,000, \$100,000, and \$167,000, respectively~~ \$150,000.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     ~~SECTION 1. Section 704.730 of the Code of Civil Procedure~~  
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1     SECTION 1.   Section 704.730 of the Code of Civil Procedure  
2     is amended to read:

3     704.730. (a) The amount of the homestead exemption is one  
4     of the following:

5     (1) Fifty thousand dollars (\$50,000) unless the judgment  
6     debtor or spouse of the judgment debtor who resides in the  
7     homestead is a person described in paragraph (2) or (3).

8     (2) Seventy-five thousand dollars (\$75,000) if the judgment  
9     debtor or spouse of the judgment debtor who resides in the  
10    homestead is at the time of the attempted sale of the homestead a  
11    member of a family unit, and there is at least one member of the  
12    family unit who owns no interest in the homestead or whose only  
13    interest in the homestead is a community property interest with the  
14    judgment debtor.

15    (3) One hundred ~~twenty-five~~ fifty thousand dollars ~~(\$125,000)~~  
16    (\$150,000) if the judgment debtor or spouse of the judgment  
17    debtor who resides in the homestead is at the time of the attempted  
18    sale of the homestead any one of the following:

19    (A) A person 65 years of age or older.

20    (B) A person physically or mentally disabled and as a result of  
21    that disability is unable to engage in substantial gainful  
22    employment. There is a rebuttable presumption affecting the  
23    burden of proof that a person receiving disability insurance benefit  
24    payments under Title II or supplemental security income payments  
25    under Title XVI of the federal Social Security Act satisfies the  
26    requirements of this paragraph as to his or her inability to engage  
27    in substantial gainful employment.

28    (C) A person 55 years of age or older with a gross annual  
29    income of not more than fifteen thousand dollars (\$15,000) or, if  
30    the judgment debtor is married, a gross annual income, including  
31    the gross annual income of the judgment debtor's spouse, of not  
32    more than twenty thousand dollars (\$20,000) and the sale is an  
33    involuntary sale.

34    (b) Notwithstanding any other provision of this section, the  
35    combined homestead exemptions of spouses on the same  
36    judgment shall not exceed the amount specified in paragraph (2)  
37    or (3), whichever is applicable, of subdivision (a), regardless of  
38    whether the spouses are jointly obligated on the judgment and  
39    regardless of whether the homestead consists of community or  
40    separate property or both. Notwithstanding any other provision of

1 this article, if both spouses are entitled to a homestead exemption,  
2 the exemption of proceeds of the homestead shall be apportioned  
3 between the spouses on the basis of their proportionate interests in  
4 the homestead.

5 is amended to read:

6 704.730.—(a) The amount of the homestead exemption is one  
7 of the following:

8 (1) ~~Sixty-seven thousand dollars (\$67,000) unless the~~  
9 ~~judgment debtor or spouse of the judgment debtor who resides in~~  
10 ~~the homestead is a person described in paragraph (2) or (3).~~

11 (2) ~~One hundred thousand dollars (\$100,000) if the judgment~~  
12 ~~debtor or spouse of the judgment debtor who resides in the~~  
13 ~~homestead is at the time of the attempted sale of the homestead a~~  
14 ~~member of a family unit, and there is at least one member of the~~  
15 ~~family unit who owns no interest in the homestead or whose only~~  
16 ~~interest in the homestead is a community property interest with the~~  
17 ~~judgment debtor.~~

18 (3) ~~One hundred sixty-seven thousand dollars (\$167,000) if the~~  
19 ~~judgment debtor or spouse of the judgment debtor who resides in~~  
20 ~~the homestead is at the time of the attempted sale of the homestead~~  
21 ~~any one of the following:~~

22 (A) ~~A person 65 years of age or older.~~

23 (B) ~~A person physically or mentally disabled and as a result of~~  
24 ~~that disability is unable to engage in substantial gainful~~  
25 ~~employment. There is a rebuttable presumption affecting the~~  
26 ~~burden of proof that a person receiving disability insurance benefit~~  
27 ~~payments under Title II or supplemental security income payments~~  
28 ~~under Title XVI of the federal Social Security Act satisfies the~~  
29 ~~requirements of this paragraph as to his or her inability to engage~~  
30 ~~in substantial gainful employment.~~

31 (C) ~~A person 55 years of age or older with a gross annual~~  
32 ~~income of not more than fifteen thousand dollars (\$15,000) or, if~~  
33 ~~the judgment debtor is married, a gross annual income, including~~  
34 ~~the gross annual income of the judgment debtor's spouse, of not~~  
35 ~~more than twenty thousand dollars (\$20,000) and the sale is an~~  
36 ~~involuntary sale.~~

37 (b) ~~Notwithstanding any other provision of this section, the~~  
38 ~~combined homestead exemptions of spouses on the same~~  
39 ~~judgment shall not exceed the amount specified in paragraph (2)~~  
40 ~~or (3), whichever is applicable, of subdivision (a), regardless of~~

1 ~~whether the spouses are jointly obligated on the judgment and~~  
2 ~~regardless of whether the homestead consists of community or~~  
3 ~~separate property or both. Notwithstanding any other provision of~~  
4 ~~this article, if both spouses are entitled to a homestead exemption,~~  
5 ~~the exemption of proceeds of the homestead shall be apportioned~~  
6 ~~between the spouses on the basis of their proportionate interests in~~  
7 ~~the homestead.~~

